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ORIGINAL

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Joseph J. Gentile Jr.

Din: 07A0255

Plaintiff,

[Insert full name of plaintiff/prisoner]

CIVIL RIGHTS COMPLAINT

42 U.S.C. § 1983

JURY DEMAND

YES ☒ NO ☐

-against-

Anthony J. Annucci (Acting Commissioner)

Edward Burnett (Superintendent)

John Wood (Dep of Programs)

Luis Gonzalez (Asst Dep of Programs)

Counselor Fuse (Group Counseling)

Defendant(s).

[Insert full name(s) of defendant(s). If you need additional space, please write "see attached" and insert a separate page with the full names of the additional defendants. The names listed above must be identical to those listed in Part I]

- I. Parties: (In item A below, place your name in the first blank and provide your present address and telephone number. Do the same for additional plaintiffs, if any.)

A. Name of plaintiff Joseph J. Gentile Jr. #07A0255

If you are incarcerated, provide the name of the facility and address:

Fishkill Correctional Facility

271 Matteawan Road, P.O. Box 1245

Beacon, NY 12508

Prisoner ID Number: #07A0255

If you are not incarcerated, provide your current address:

Parole April 27, 2021.

Telephone Number: My wife Tameka Felton Gentile I am  
paroling to her. Phone number is: (516) 412-0663

B. List all defendants. You must provide the full names of each defendant and the addresses at which each defendant may be served. The defendants listed here must match the defendants named in the caption on page 1.

Defendant No. 1

Anthony J. Annucci  
Full Name  
Acting Commissioner  
Job Title  
1220 Washington Ave.  
Albany, N.Y. 12226-2050  
Address

Defendant No. 2

Edward Burnett  
Full Name  
Superintendent  
Job Title  
271 Matteawan Road, PO Box 1245  
Beacon, N.Y. 12508  
Address

Defendant No. 3

John Wood  
Full Name  
Dep of programs  
Job Title  
Fish Kill Correctional Facility

271 Matteawan Road, P.O. Box 1245  
Beacon, NY 12508  
Address

Defendant No. 4

Luis Gonzalez  
Full Name

Asst Dep of programs  
Job Title

271 Matteawan Road P.O. BOX 1245  
Beacon, N.Y. 12508  
Address

Defendant No. 5

(Unknown) As. Fuse  
Full Name

S.O.P. Group Counseling (Rm 25)  
Job Title

Address

## II. Statement of Claim:

(State briefly and concisely, the facts of your case. Include the date(s) of the event(s) alleged as well as the location where the events occurred. Include the names of each defendant and state how each person named was involved in the event you are claiming violated your rights. You need not give any legal arguments or cite to cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. You may use additional 8 ½ by 11 sheets of paper as necessary.)

Where did the events giving rise to your claim(s) occur? At Fishkill Correctional Facility.

When did the events happen? (include approximate time and date) I informed the administration here at Fishkill via "Inmate Grievance" submitted on November 2, 2018.

I have in great detail Explained how these programs Violate my religion. Sincerely I ask you see Grievance, Please Refer to the Attached Detailed Grievance For more Facts

Facts: (what happened?) Most Respectfully, I had, and have done as Allāh commands in HIS speech the Holy & (6-120) NOBEL Qur'ān: "Leave off sin, done, both openly and secretly" The Greatest sin according to both "sunni" and "SHI'ITE" muslims is "SHIRK AKbar". Associating partners with Allāh. In other words worshipping anyone or anything other than Allāh. Confession of any sin to Anyone, is Forbidden! The Prophet Muhammad (s.a.w.s) was reported to have said: "Conceal your Faults and sins (do not speak of them) and Allāh will Conceal and Forgive you them on the day of Judgement." Here I've made the state aware of this for years. Yet I've been forced to attend these groups. I have attached the Grievances to better explain in detail, how these programs violate my religion. I am going to be released April 27, 2021, I beg Allāh and this Honorable Court to File my claim. I can convey myself verbally far better than I write.

II.A. Injuries. If you are claiming injuries as a result of the events you are complaining about, describe your injuries and state what medical treatment you required. Was medical treatment received?

My injuries are beyond words, I sob as I am forced to seek the Help of man over Almighty GOD (Allāh) my Lord has given me nightmares I am Forbidden to speak on. According to the Sunnah of my Prophet Muhammad s.a.w.s.

As stated by my Grievance submitted  
11-20-18, Grievance # FCF-38537-18.

I had informed this office (D.O.C.S.) that in the religion of Islam, There is no "Confession". Here the sex offender program is even more of a violation of my religion.

Because it is speaking about sex, A muslim only speaks of sex with his or her spouse, Father to son, mother to daughter. Further the Prophet Muhammad (s.a.w.s) again said "~~Reveal~~" Conceal your Faults/sins (do not speak of them) and Allāh will forgive you them on the day of Judgement."

Here at Fishkill Correctional Facility Counselor Mrs. Fuse when giving her class "asked me" "what are your triggers?" When I asked "what are triggers?" she said "what gets you aroused?" I replied "my religion forbids me from answering that." It upset her a great deal. Then Mrs. Fuse was reading from some "sex offender material" a booklet. When she came to a part where it stated "Sexual Deviate behavior is a sickness!" I asked Mrs. Fuse "what is considered deviate?"

Ms. Fuse replied "homosexuals, society considers homosexuals deviates!" When I said: "Ms. Fuse homosexuals can't be considered deviate!" She said "Society considers them deviate, don't argue with me!"

The last statement From Ms Fuse was said in a enraged, aggressive tone,

As if she has personal reasons to dislike homosexuals. Being Ms. Fuse has attacked me for bringing up my Islamic Faith. I find it very disturbing "that separating "church" and "state" only "applies to my Faith" But when I said these exact words to her she acted very aggressive toward me. I further said to her, "our Current President Joe Biden has appointed a transgenderwoman to his cabinet, that proves that the L.G.B.T. community are not deemed Deviates by society but by you Ms. Fuse." I only remember her shouting "Not to argue with her", making a indirect comment that she has Friends in Albany who can prevent my release on parole. I will submit to a polygraph. I ask Ms. Fuse be offered one as well.



Addendum

In regard to the exhausting of administrative remedies, I have. I beg Allah, and this Honorable Court to see through the deception of the New York State Department of Corrections, Used to circumvent the grievance process. More deplorable clearly, is their intention of avoiding true Judicial intervention, Which would protect me from this ongoing violation, of my Islamic Faith. On November 2, 2018 I submitted my grievance on these violations of the United States Constitution. Under Grievance number # FCF-38537-18. My Grievance sat idle in D.O.C.S. Headquarters over two years with no reply. Until after I am told by A.S.A.T. Senior Counselor Van Dyken in late 2019 I was being given "Executive Clemency", Ms. Van Dyken said she had gotten an E-MAIL From Director William Fitzpatrick OF The Executive Clemency Bureau, I had received a number of letters From Director Fitzpatrick. Stating that I had been cleared by him, the Director for executive clemency.

Lastly I am taken by Ms. Van Dyken to Building 13 and she had completed a Parole packet, When I asked her how long before I was to be released she replied "I do not know, but Albany demands a parole address by this Friday"

I had submitted two addresses, Plus a letter of employment from Thomas Arvanitidis a master electrician. My Father Joseph J. Gentile SR ESQ (AD 1953 Born 1922 - 2018) had just passed on and with my mother still living in hardship. For they were happily married Fifty one years. Her and I broke down crying. That this executive Clemency just missed my being there for my Father. When I spoke to another O.R.C. Bell he said I should be released in a matter of days. Again, this is late 2019 with my appeal pending on this Grievance. Then I receive a letter asking me to give Albany, (Grievance Headquarters) D.O.C.S, to give them more time to decide on my grievance although it had been nearly two years. I wrote back "Because Director Fitzpatrick of Executive Clemency has ordered a ~~parole~~ Parole packet be done I am being released." Further on that lie of my release I had withdrawn said grievance. I am still in prison, have never been paroled. It is clear that I was deceived so I would withdraw my grievance. All of these facts can be confirmed by D.O.C.S. N.Y. Computer, EMAIL'S. Respectfully I hope this Honorable court not hold me to that withdrawal being it was made as if an agreement that I would not be here still exposed to this violation of my beliefs.



IF not for D.O.C.S, trickery my exhausting of administrative remedies have been met. The sex offender counselor "Ms. Fuse" has abused and mistreated me and my beliefs in Islam many times. I once slipped and said in arabic "InshaAllāh" which means in english GOD willing. Ms. Fuse raised her voice saying "that Jibberish has no place in here!" Yet a Friend who is in the same class said "God willing" in english Ms. Fuse smiled and said nothing. The one instance where she almost "pulled her pin" to have security staff put me in the Box was when she was reading from a book on the treatment of sex offenders. Ms. Fuse began to read "The doctor said sexual Deviates can be-cured" when another person in the class asked Ms. Fuse "what is considered Deviates" Ms. Fuse said "Society says Homosexuals are sick ~~Dev~~ Deviates" I interjected because I must "Participate" according to Ms. Fuse IF I do not "She will see I am never released!" I said Ms. Fuse Society does not say Homosexuals are Deviates, you do "President Joe Biden has a transgender woman in his Cabinet" Ms. Fuse went berserk, livid screaming "Don't you argue with me". I beg this Courts intervention. I will happily take a polygraph.

3-0F-3

Joseph J. Monteleone  
28. U.S.C. § 1746

III. Relief: State what relief you are seeking if you prevail on your complaint.

The only relief I seek is not to be punished by the State of New York for believing in Allah. I also beg an audience with this Honorable Court, Please Forgive my spelling and penmanship my hand shakes while I dwell on this. out of sincere Fear of Allah.

I declare under penalty of perjury that on April 8, 2021, I delivered this  
(date)  
complaint to prison authorities at Fishkill Correctional to be mailed to the United  
(name of prison)  
States District Court for the Eastern District of New York.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 4-8-2021

Joseph J. Gentile Jr.  
Signature of Plaintiff

Fishkill Correctional  
Name of Prison Facility or Address if not incarcerated

271 Matteawan Road  
P.O. Box 1245  
Beacon, NY 12508  
Address

07A0255  
Prisoner ID#

STATE OF NEW YORK - DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION

**FISHKILL CORRECTIONAL FACILITY**

**GRIEVANCE RECEIPT NOTIFICATION**

**TO:**

Gentile, J. 07A0255  
(NAME / DIN #)

**FROM:**

Grievance Office

**DATE FILED:**

11-6-18

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This is to inform you that the below referenced grievance has been received by the Grievance Office and filed on the date noted above.

**GRIEVANCE #** 38 537-18

**CODE** 6

**TITLE** No ASAT, ART

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FISHKILL CORRECTIONAL FACILITY  
Inmate Request Form

NOTE: This request may not be processed unless you have provided all of the information as requested below and have obtained the Signature of your Housing Unit Officer.

NOTA: Este requisito no sera procesado a menos que usted no haya provehido toda la informacion como ha sido requerida en la parte de abajo y haber obtenido la firma del oficial de su unidad.

Name (Nombre) Joseph Gentile Din# (Numero) 07A0255  
Unit (Unidad) 21-1E-25 Date (Fecha) November 2, 2018  
AM Program Food ser. PM Program Food ser. Eve Program                       
Programas

WHAT SERVICES ARE YOU REQUESTING?  
¿QUE SERVICIOS USTED NECESITA?

- |   |  |
|---|--|
| <input type="checkbox"/> Program Committee<br>Comite de Programa            | <input type="checkbox"/> Chaplain's Services<br>Oficina De Capellan  |
| <input type="checkbox"/> Head Clerk<br>Cabeza de Oficinas                   | <input type="checkbox"/> Volunteer Services<br>Servicios Voluntarios |
| <input type="checkbox"/> Inmate Accounts<br>Cuenta De Los Internados Presos | <input type="checkbox"/> Medical Services<br>Servicios Medicos       |
| <input type="checkbox"/> Transitional Services<br>Servicios De Transicion   | <input type="checkbox"/> Barber Shop<br>Barberia                     |
| <input type="checkbox"/> Parole Unit<br>Unidad De La Libertad Provisional   | <input type="checkbox"/> Service Unit<br>Unidad De Servicios         |
| <input type="checkbox"/> Other (Be Specific)<br>Otros (Sea Especifico)      | <input checked="" type="checkbox"/> IGRC                             |
| <input type="checkbox"/> Mental Health Unit<br>Unidad De Salud Mental       |  |

1 OF 4

Please State Problem Being a sincere and devout muslim these "Programs" →  
Por favor especifique su problema → A.S.A.T., A.R.T., and S.O.P. violate my

civil rights protected by both the N.Y.S and U.S. Constitution.

C.O's Signature M Neph - Date 11/2/18  
(Not Necessary For IGRC Services)

To \_\_\_\_\_ Din # \_\_\_\_\_

In Reply To Your Request Dated \_\_\_\_\_

Name of Responder

Title

Date

To explain how these programs violate my civil rights protected by both the United States as well as the New York state constitutions, Protected is my Religion; which is Islam.

In Islam we Follow the orders given to us by Allāh (GOD), in His speech (His Words), the Holy and Noble Qur'an, and the Sunnah (words, orders, actions, lessons ect.) of the Prophet Muhammad (m.p.b.u.h).

Allah states in the Holy Qur'an "obey Me and My Messenger" in several Ayāt (verses) of our Qur'an, an order given to all Muslims by GOD.

In the Sunnah of the Prophet Muhammad (m.p.b.u.h) there is a well known authentic Hadith (in this case order, statement) From the Prophet Muhammad in which he orders "Conceal (do not do publicly, nor speak of) your Faults and Allāh (GOD) will Conceal (Forgive) your Faults on the day of Judgment" Hence no muslim should need to sit in either a one on one or group speaking of "sins" they committed, for they advertise and propagate these actions not only in thier own Hearts and minds but the Hearts and minds of others, ~~even~~ Worst of all being held accountable by GOD on the day of Judgment, for sins GOD (Allāh) would have forgiven them.



on page one of this grievance I Listed said programs that violated ~~at~~ my Religion (Islam) in this order A.S.A.T., A.R.T. and S.O.P.

Please allow me to adress each of these in relation to me personally, In regards to A.S.A.T. I have never had a "~~Borg~~" Drug related case" nor any "D.U.I." Charge. Never In all my time in prison, (First week of January 2007) have I had a "Dirty urine" (positive for any drug use) yet many people who complete said "A.S.A.T." test positive for drugs after completing the A.S.A.T program.

Secondly A.R.T., I am innocent of current conviction, both the second circuit (under Gentile v. Capra 18-1046) Federal Court as well as the U.S. Supreme Court under (Gentile v. New York 17-7776 are currently reviewing my case on appeal. During the last nearly twelve years, Although I have been attacked and assault on more than one occasion even once resulting in twenty five stitches to put together my right ear, I did not, and have not, hit, struck or ~~harmed~~ harmed anyone in my entire life. So similar to the A.S.A.T, I will not sit somewhere and listen to others sins nor make up lies (another sin) to appease a person, but anger all Mighty GOD (Allâh) the All-Hearing, "inventing" stories of violence.

In close, thank Allāh (swt) I am not guilty of raping my ex wife, all I did was break-off relations with her when I found out she was unfaithful. She needs S.O.P, not me. In the U.S. Supreme Court there are recordings made by N.Y.C. Dept. of CORR, where my ex-wife said "IF I (she) tell the truth & that I did not rape her) I (she) will go to Jail" after a decade I finally won an Art-78 for those calls which prove I am innocent.

Again, For any muslim "confession" of sins is not permitted, and as an American my Religion is protected. Thank you,

Resolution: That these Programs be removed From me, as "needed" or "required programs" in order to make my conditional release, should the courts not make thier decision, or I need appeal thier decision.

Treely

Joseph J. Gentile Jr.  
28 U.S.C. 1746

cc: ANDREW F. Plassé, Esq.

163-07 Depot Road, Suite 205  
Flushing, NY 11358-2056

Pro-Se

114 Prospect Street  
Ithaca, NY 14850

Harold V. Ferguson Jr. Esq.  
199 Water St.  
New York, NY 10038

## INMATE GRIEVANCE COMPLAINT

Grievance No. \_\_\_\_\_

Fish Kill

CORRECTIONAL FACILITY

Name Joseph GentileDate April 7, 2021Dept. No. 07A0255 Housing Unit 12-2-Bed/12Program Group Counselor AM \_\_\_\_\_

(Please Print or Type - This form must be filed within 21 calendar days of Grievance Incident)\*

Description of Problem: (Please make as brief as possible)

This is an extension of  
Grievance number (FCF-38537-18) which Albany could  
Not Refute Any Program where a muslim must  
"confess" or "acknowledge" past or present  
"sins". Like, but not limited to, drugs, Alcohol or  
sex are a violation of the Islamic Faith. Being  
Albany D.O.C.s. is Aware they are violating my religion I am  
Filing a 1983 in the Federal courts.

Grievant  
SignatureJoseph J. Gentile

Grievance Clerk \_\_\_\_\_

Date: \_\_\_\_\_

Advisor Requested

☐

YES

☐

NO

Who: \_\_\_\_\_

Action requested by inmate:

That I immediately be removed from  
"S.O.P." (Group Counseling - Rm 25). Regardless in  
this Federal 1983, I will continue to fight this violation  
of my civil rights.

This Grievance has been informally resolved as follows:

This Informal Resolution is accepted:

(To be completed only if resolved prior to hearing)

Grievant  
Signature \_\_\_\_\_

Date: \_\_\_\_\_

if unresolved, you are entitled to a hearing by the Inmate Grievance Resolution Committee (IGRC)

\*An exception to the time limit may be requested under Directive #4040, section 701.6(g).

FORM 2131E (REVERSE) (REV. 6/06)

Response of IGRC:

FCF-38537-18

11-20-18

Grievance denied. Per ADSP grievant has been appropriately assessed as needing ASAT (based on his intake interview at Downstate) and ART (based on crime of conviction). Finally, CORC has asserted in CX-15513-09 "that ASAT is based on the nine competencies of recovery, not the twelve steps" and that "ASAT is not based on any religion".

Date Returned to Inmate

11-20-18

IGRC Members

Sgt. L. Sealey

Chairperson

F. J. Smith

G. King  
K. King  
D. King

Return within 7 calendar days and check appropriate boxes.\*



I disagree with IGRC response and wish to  
appeal to the Superintendent.



I have reviewed deadlocked responses.  
Pass-Thru to Superintendent



I agree with the IGRC response and wish to  
appeal to the Superintendent.



I apply to the IGP Supervisor for  
review of dismissal

Signed

Joseph A. Senkato Jr.  
Grievant

11-23-18

Date

Grievance Clerk's Receipt

Date

To be completed by Grievance Clerk.

Grievance Appealed to the Superintendent

Date

Grievance forwarded to the Superintendent for action

Date

First Deputy Superintendent Williams 11-26-18

affirmance of the IGRC's denial of grievance FCF#38537-18 is both arbitrary, capricious and borders on impropriety.

My reasoning is borne by the fact that neither the IGRC or any DOCCS employee involved in the investigation of my grievance has produced a shred of evidence in support of DOCCS' determination/assessment that I need treatment for "Substance abuse" (i.e. ASAT)

Additionally, contrary to the coy use of semantics by the IGRC and Ms. Williams, my grievance does not complain that ASAT [or ART or the SOP] is based on religion (see line 4 of Ms Williams' decision affirming my grievance).

As stated in my grievance, arbitrarily and capriciously forcing me to participate in ASAT, ART and/or SOP violates my civil rights because my religious belief forbids me to confess sins against the commandments of Allāh and His Prophet Muhammad (m.p.b.v.h.), which a participant in ASAT, ART and/or SOP must do to satisfy program requirements.

Thus, my grievance must be granted in its entirety, and the assessment need(s) must be expunged from my guidance and counseling records.



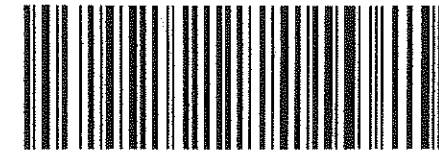
Joseph Gentile DIN 07A0255  
Fishkill Correctional Facility  
Box 1245  
Beacon, New York 12508

04/13/2021  
US POSTAGE \$009.65



ZIP 12508  
041L11251113

CERTIFIED MAIL



7019 1640 0000 0829 2298

New York Southern District Court  
Honorable Daniel Patrick Moynihan  
500 Pearl Street  
New York, New York 10007

ws  
to se

"Legal Mail"

USMP3  
SDNY

FISHKILL  
CORRECTIONAL  
FACILITY

